



Comptroller General
of the United States
Washington, D.C. 20548

Decision

Matter of: Resource Consultants, Inc.

File: B-245312.2

Date: March 23, 1992

Jacob B. Pompan, Esq., Pompan, Ruffner & Bass, for the protester.
Roger G. Lawrence, Esq., Department of the Navy, for the agency.
Sylvia Schatz, Esq., and John M. Melody, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Although record supports protester's argument that agency increased protester's proposed G&A rate despite a proposed cap on that rate, agency's cost/technical trade-off based on the resulting increased cost remains valid where the cost increase was relatively small and, in any case, clearly had no impact on the award decision, which was largely based on the awardee's significant technical superiority.

DECISION

Resource Consultants, Inc. (RCI) protests the award of a contract to M&T Company under request for proposals (RFP) No. N68520-90-R-0023, issued by the Department of the Navy for technical and engineering services in support of several Navy aviation maintenance depots. RCI principally maintains that the agency did not conduct a proper cost/technical trade-off.

We deny the protest.

The solicitation contemplated the award of a cost-plus-fixed-fee, indefinite delivery, indefinite quantity contract for a base year and 4 option years. The RFP stated that award would be made to the responsible offeror whose proposal was determined to be the most advantageous to the government, cost and other factors considered. The RFP listed several technical evaluation factors, provided that technical factors and cost were of equal importance, and stated that a cost realism analysis would be performed. The RFP specifically warned that a proposal meeting solicitation requirements offering the lowest evaluated cost may not be selected if award to an offeror with a higher evaluated cost.

would afford the government a greater overall benefit. In this regard, the RFP specifically permitted payment of up to a 35 percent cost premium for a technically outstanding proposal.

Five proposals, including RCI's and M&T's, were included in the competitive range. After discussions and receipt of best and final offers (BAFO), M&T's technical proposal was rated "outstanding," while RCI's proposal was rated "acceptable." The cost realism analysis of the BAFO cost proposals resulted in upward adjustments of both offerors' proposed costs as follows:

<u>Offeror</u>	<u>Proposed BAFO Cost</u>	<u>Evaluated Cost</u>
M&T	\$31,858,233	\$36,522,007
RCI	\$30,012,572	\$31,522,150

RCI proposed an 8 percent cap on reimbursement of general and administrative (G&A) expenses, but the evaluators inflated the rate to 12.47 percent based on a Defense Contract Audit Agency report indicating that this was RCI's actual audited G&A rate. The evaluators also increased RCI's proposed direct labor rates. The evaluators similarly increased M&T's G&A and labor rates in arriving at a total evaluated cost.

The protester contends that the agency's upward adjustment of its G&A rate was improper in light of its proposed 8 percent cap, and that the cost/technical trade-off using its evaluated price with the adjusted G&A rate did not reflect the best value to the government.

RCI is correct that the imposition of a cap on reimbursable costs generally is sufficient to preclude an upward adjustment pursuant to a cost realism analysis. This is because capping proposed costs shifts the risk of cost overruns to the contractor, so the government will not incur costs above those proposed. See Advanced Tech. Sys., Inc., 64 Comp. Gen. 344 (1985), 85-1 CPD ¶ 315.

We find that the record shows RCI's evaluated cost, including its inflated G&A rate, were considered in the cost/technical trade-off decision. In this regard, the record includes the minutes of the Source Selection Evaluation Board (SSEB) and Source Selection Authority (SSA) meetings, both of which state that "although the evaluated cost of M&T's proposal is 15.5 percent higher [than RCI's]

. . . the Government is justified in paying this premium for a technically superior contractor. . . ."

We think it is clear, however, that the increased cost related to the G&A rate had no effect on the agency's award decision. First, the increased G&A had a relatively minimal impact on the cost used in the comparison. The increased rate added \$836,797 to RCI's proposed cost (the remainder of the increase was attributable to labor cost increases not in issue). Subtracting this amount from RCI's evaluated cost reduces that cost to \$30,685,353, which is 15.9 percent below M&T's \$36,522,007 evaluated cost, almost the same percentage the agency used in its trade-off (15.5 percent).²

More significant, aside from mere percentage comparisons, it is well documented in the SSEB and SSA meeting minutes (and also is reflected in the 35 percent premium authorized by the RFP) that the agency considered M&T's technically outstanding proposal to be worth a substantial cost premium. Both the SSEB and SSA reports state that:

"[T]he justification [for awarding to M&T at a greater cost is that] due to the highly technical and schedule driven environment of the CAS Test Program Set (TPS) development, a contractor with the highest possible technical and management expertise is required. Any learning curve on the contractor's part will cause delay. Any schedule slip will cause increased overall TPS development cost to the Government. . . . M&T's expertise and experience will serve to minimize schedule risk over the life of the program, thereby keeping overall CASS TPS development costs down. RCI, although acceptable, cannot provide the same level of expertise in both the technical and management areas."

The SSEB report also specifies the cost savings it expected to realize by selecting M&T instead of RCI: RCI's learning curve (\$1,037,686); M&T's faster performance (\$2,800,000); and possible delay costs avoided (\$3,024,000 per month).

¹Although the agency states in its report that its trade-off was based on a comparison of BAFO costs, the record shows that the trade-off in fact was based on the firms' evaluated costs. It would be improper to award a cost reimbursement contract based only on a comparison of proposed costs. See Joule Tech. Corp., B-192125, May 21, 1979, 79-1 CPD ¶ 364.

²This is calculated by dividing \$36,522,007 into the \$5,836,654 difference between M&T's evaluated cost and RCI's evaluated cost after subtracting the increased G&A amount (\$31,522,150 - \$836,797).

The protester did not respond to the agency's report in its comments; it asked that we decide the matter on the existing record.

We conclude that, while the record does show that the agency improperly increased RCI's capped G&A costs, it is clear that this had no impact on the cost/technical trade-off decision.

The protest is denied.

for Robert P. Murphy
James F. Hinchman
General Counsel